

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of the Residential
Contractor License of Precision Craft, Inc.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came on for a Prehearing Conference before Administrative Law Judge Kathleen D. Sheehy at 1:30 p.m. on May 13, 2004, at the Office of Administrative Hearings, 100 Washington Avenue South, Minneapolis, Minnesota. Francis Green III, Assistant Attorney General, 445 Minnesota Street, Suite 900, St. Paul, Minnesota 55101-2127, appeared for the Department of Commerce (Department). No one appeared for or on behalf of Precision Craft, Inc. (Respondent). The last known address for the Respondent is 5230 W. 102nd Street, Suite 306, Bloomington, Minnesota 55437. Based upon the Respondent's failure to appear, the Department requested a Default Recommendation. The record closed in this matter upon the close of the prehearing conference on May 13, 2004.

This report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Commissioner shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report, and the Commissioner must consider the exceptions in making a final decision. Parties should contact the Commissioner of Commerce, 85 East Seventh Street, St. Paul, Minnesota 55101, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUES

1. Did the Respondent hire an unlicensed electrician to complete work on the Hites project, in violation of Minn. Stat. § 326.91, subd. 1(2)?

2. Did the Respondent fail to adequately supervise its employees and subcontractors on the Lessard and Michel projects, in violation of Minn. Stat. § 326.91, subd. 1(4)?

3. Did the Respondent fail to complete contracted for work on the Lessard, Michel, and Shepard projects, in violation of Minn. Stat. § 326.91, subd. 1(6)?

4. Did the Respondent fail to reduce to writing changes in the original contract for the Lessard project, in violation of Minn. R. 2891.0030?

5. Did the Respondent fail to respond to the Department's request for information in relation to the Lessard complaint, in violation of Minn. Stat. § 45.027, subd. 1a?

6. Did the Respondent fail to notify the Department within 10 days of a change of address, in violation of Minn. Stat. § 45.0112?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On March 24, 2004, the Department served by first class mail the Notice of and Order for Prehearing Conference in this matter upon the Respondent's Qualifying Person, Mark Moe, at the last known address for Precision Craft, Inc., 5230 W. 102nd Street, Suite 306, Bloomington, Minnesota 55437. The Notice of and Order for Prehearing Conference notified the Respondent that a prehearing conference would be held at 1:30 p.m. on May 13, 2004, at the Office of Administrative Hearings.

2. On May 13, 2004, the Respondent failed to appear at the prehearing conference. The Respondent failed to request a continuance or to otherwise notify the Administrative Law Judge in advance of the prehearing conference that it could not appear.

3. The Notice and Order for Prehearing Conference informed the Respondent that failure to appear at the prehearing conference may result in a finding that Respondent is in default, that the allegations set forth in the Notice and Order for Prehearing Conference may be accepted as true, and that the Department's proposed action may be upheld.

4. The Respondent is in default for failing to appear at the prehearing conference.

5. Pursuant to Minn. Rules 1400.6000, the allegations contained in paragraphs 1 through 22 of the Notice and Order for Prehearing Conference are taken as true and are deemed proved without further evidence. The allegations are hereby incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Department and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027 and 326.91 (2002).

2. The Board has given proper notice of the prehearing conference in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondent hired an unlicensed electrician to install new electrical service, a boiler, and a subpanel at the Hites home. In doing so the Respondent engaged in a deceptive or dishonest practice in violation of Minn. Stat. § 326.91, subd. 1(2).

4. The Respondent failed to adequately supervise its employees and subcontractors on the Lessard and Michel projects and thereby caused injury or harm to the public, in violation of Minn. Stat. § 326.91, subd. 1(4).

5. The Respondent failed to complete contracted for work on the Lessard, Michel, and Shepard projects. This failure demonstrates the Respondent was incompetent, untrustworthy, or financially irresponsible in violation of Minn. Stat. § 326.91, subd. 1(6).

6. The Respondent failed to reduce to writing the changes in the original contract for the Lessard project, in violation of Minn. R. 2891.0030.

7. The Respondent failed to respond to the Department's request for information in relation to the Lessard complaint, in violation of Minn. Stat. § 45.027, subd. 1a.

8. The Respondent failed to notify the Department within 10 days of a change of address, in violation of Minn. Stat. § 45.0112.

9. The Respondent is subject to discipline and civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 & 7, and 326.91, subd. 1 (2002). The imposition of sanctions is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED THAT THE Commissioner of Commerce take disciplinary action against Precision Craft, Inc.

Dated this 13th day of May, 2004.

/s/ Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

Reported: Default

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Commissioner is required to serve its final decision upon each party and the Administrative Law Judge by first class mail. If the Commissioner fails to issue a final decision within 90 days of the close of the record under Minn. Stat. § 14.61, this report becomes a final decision. In order to comply with Minn. Stat. § 14.62, subd. 2a, the Commissioner must then return the record to the Administrative Law Judge within ten working days to allow the Judge to determine the discipline to be imposed.